

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA

§

§

v.

§

CASE NO. 4:07cr42.47

ELVA MILAN

§

§

**MEMORANDUM ADOPTING REPORT AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

The court has received the report of the United States Magistrate Judge in this criminal action. As the parties jointly request the withdrawal of Defendant's guilty plea and therefore have waived the right to object to the report, the court is of the opinion that the findings and conclusions of the Magistrate Judge are correct. Therefore, the court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the court.

Therefore, Defendant's Motion to Withdraw Plea of Guilty (Dkt. 1499) is GRANTED. Further, pursuant to the Magistrate Judge's withdrawal of his Findings of Fact and Recommendation on Guilty Plea (Dkt. 1328), this court's Order Adopting Magistrate Judge's Report and Finding Defendant Guilty on Count One of the Fourth Superseding Indictment (Dkt. 1342) is hereby VACATED and the Plea Agreement, filed on February 5, 2008 (Dkt. 1295), is ordered STRICKEN from the record.

IT IS SO ORDERED.

SIGNED this 30th day of June, 2008.


RICHARD A. SCELL
UNITED STATES DISTRICT JUDGE